

TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-FIRST LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE: §
§
CONSIDERATION OF §
SENATE BILL 362 §



COMMITTEE OF THE WHOLE SENATE

TUESDAY, MARCH 10, 2009

BE IT REMEMBERED THAT AT 12:38 p.m., on Tuesday, the 10th day of March 2009, the above-entitled matter was heard at the Texas State Capitol Senate Chamber, Austin, Texas, before the Committee of the Whole Senate; and the following proceedings were reported by Aloma J. Kennedy, a Certified Shorthand Reporter of:

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1 LAYING OUT OF SENATE BILL 362

2 SEN. FRASER: Thank you, members. The
3 three-minute rule is in effect.

4 I've been sitting here for four hours
5 waiting to lay this out. And, actually, we have a lot
6 of discussion about how I should lay this out,
7 discussion on it. And I think the bill speaks for
8 itself. And I am going to be very brief, probably
9 three or four minutes, and allow the witnesses to move
10 forward, because I think we've wasted enough of the
11 public's time and that we should move forward with
12 hearing from the witnesses.

13 Members, this bill, I think probably
14 most of you are going to be very familiar with it.
15 It's something we've talked about a lot. Someone back
16 a while ago when we were having lunch asked me the
17 question, said, "How did the talk about this bill get
18 started"?

19 And I actually came back and sat down,
20 and I've got probably, interestingly, more research
21 and more reading and debate on this bill maybe than
22 one I've ever done, because I'm very interested in the
23 concept. But I think probably if you track it back in
24 our nation's history, is that we look at the ongoing
25 threat of voter fraud that this country has addressed

1 secondary choices are a lot of secondary choices.

2 They could show their library card.

3 They could show any government piece of mail that was
4 mailed to them. Basically anything that would show
5 their identification as a secondary source of
6 identification is going to be allowed under my bill.
7 And when we start discussing that, I'll be glad to go
8 over the list that is listed of things. But in Texas,
9 the bill that we are laying out actually has a
10 secondary choice. Then if someone doesn't have a
11 photo ID, there is a secondary choice to identify
12 themselves.

13 I should also clarify that we are only
14 addressing the in-person voting; we are not addressing
15 mail-in ballots, early voting, any of the other things
16 in the election cycle.

17 I think I'm going to go ahead and close
18 so we can start either the questions and/or bring in
19 the witnesses. But I think it's important to note
20 that in upholding Indiana's photo ID law, in the
21 decision that was given by John Paul Stevens in his
22 majority opinion, he stated, "Confidence in the
23 integrity of our election process is essential to the
24 functioning of our participatory democracy. Voter
25 fraud drives honest citizens out of the democratic

1 itemize --

2 SEN. FRASER: I'm getting heckled over
3 here. People from the other side are moving over
4 to -- he's trying to implement the egg-timer rule of
5 three minutes.

6 SEN. ZAFFIRINI: I see.

7 SEN. FRASER: I'm for that.

8 SEN. ZAFFIRINI: Well, on Page 6, line
9 14 of your bill, you list types of documentation that
10 you acceptable as proof of identification under this
11 chapter. In 2007, in House Bill 218 which you
12 sponsored in the Senate, you included a student
13 identification card as proof of identification, as
14 acceptable documentation, but a student ID card is not
15 included in your 2009 bill. Could you explain why?

16 SEN. FRASER: Senator, could I refer you
17 to Section 6.

18 SEN. ZAFFIRINI: What line, what page,
19 Senator?

20 SEN. FRASER: It is -- just a second.
21 The reference you're making is the public institutions
22 of higher learning, the student ID card is still
23 included. The wording changed, but it's covered by
24 No. (6)(A).

25 SEN. ZAFFIRINI: So you're saying that

1 on Page 6, beginning at Line 8 where it reads, "a
2 valid identification card that contains the person's
3 photograph and is issued by:

4 (A) An agency or institution of
5 the federal government; or

6 (B) An agency, institution, or
7 political subdivision of this state," you're saying
8 that that would include institutions of higher
9 education and that, therefore, student identification
10 cards would be acceptable proof of identification?

11 SEN. FRASER: Yes.

12 SEN. ZAFFIRINI: Good.

13 SEN. FRASER: Isn't that what that says?
14 It says "an agency, institution or political
15 subdivision of this state." The University of Texas
16 is considered a subdivision of the state. It says
17 that an identification card that contains a person's
18 photograph that is issued by. I think the answer to
19 your question is "Yes."

20 SEN. ZAFFIRINI: All right. In your old
21 bill -- I'm looking at it now -- you have this
22 language -- and in addition to that, you specified the
23 student identification card. But so long as you
24 clarify your legislative intent, that's acceptable to
25 me.

1 you have placed in front of us today on voter ID have
2 an affirmative role for states in recommending that
3 they reach out to non-drivers by providing more
4 offices?

5 SEN. FRASER: I'm sorry. I'm not even
6 getting close to following the question you're asking.
7 The bill that I'm laying out today says that when
8 Wendy Davis walks into the voting booth, you've got to
9 prove that you're really Wendy Davis. It's that
10 simple.

11 SEN. DAVIS: And the bill does not
12 include a request of the state that it open more
13 offices for the purposes of obtaining a photo ID for
14 non-drivers, it does not include that proposal.
15 Correct?

16 SEN. FRASER: They can use non-photos.
17 I mean, there is no provision right now, there is
18 nothing in the bill that every person in the state
19 could not comply with, because you can use a piece of
20 mail that had been mailed to you, your library card.
21 There's a long, long list of things that you could
22 use. You could even use as your piece of
23 identification the mail that the registrar sent to you
24 for your voter registration. That's a form of
25 identification.

1 back to my question. Maybe it wasn't specific enough.
2 Have you talked to any African-Americans or Hispanics
3 that are in support of your bill --

4 SEN. FRASER: Yes.

5 SEN. WEST: -- support? And will they
6 be here to testify?

7 SEN. FRASER: I'm not advised. I --

8 SEN. WEST: Okay. Have you talked to
9 any African- --

10 SEN. FRASER: I haven't looked at the
11 list of who is going to testify.

12 SEN. WEST: Have you talked to any
13 African-Americans or Hispanics about the impact that
14 your bill will have on their right to vote?

15 Let me tell you what I'm getting to.
16 Have you talked to any African-Americans? Have you
17 done an assessment in terms of whether or not this
18 particular bill and the methods that you are employing
19 will be retrogressive as it relates to the minority
20 voters of the State of Texas?

21 SEN. FRASER: I think the answer is the
22 same answer I gave you about four questions ago, is
23 that I looked at -- and I've spent a lot of time
24 examining the data of actual voter turnout that
25 happened after the implementation of a photo ID bill

1 in Indiana and in Georgia. And I have invited the
2 election judges from both states to come and share
3 that with you today, and I feel sure that they will be
4 glad to answer your questions.

5 SEN. WEST: And based on your
6 observation of what occurred in those particular
7 states, you believe that your bill, if enacted in law,
8 will not have any retrogressive impact on the minority
9 voters of the State of Texas?

10 SEN. FRASER: I think my bill is going
11 to increase African-American and Hispanic turnout in
12 Texas. I think those people today feel
13 disenfranchised because they feel like there is fraud
14 going on in votes today --

15 SEN. WEST: Well, have you talked to
16 any --

17 SEN. FRASER: Are you interrupting me?

18 SEN. WEST: Yes. I --

19 SEN. FRASER: Just a second. I get to
20 finish.

21 SEN. WEST: But you say you feel like
22 those people. My question is, who have you spoken to,
23 to come to that assertion that those people feel as
24 though that there's fraud and all that stuff? What
25 African-Americans and Hispanics -- have you spoken to

1 some to make that assertion, in the State of Texas?

2 And I'll listen to you now. I'll listen
3 to you now respond to my question.

4 SEN. FRASER: I have laid out a bill and
5 researched, asked questions about the way people vote.
6 I believe I have a bill that will encourage people
7 that their vote will count and their vote is not going
8 to be diluted by those that cheat. I think that will
9 encourage voters, as it did in Indiana and in Georgia.

10 And I believe that this bill is not only
11 good for the people of the State of Texas, but I'm
12 pretty familiar with the ethnic makeup of the people
13 you represent. And I think this bill will be
14 extremely good for Royce West's senatorial district.

15 SEN. WEST: Well, and I appreciate your
16 thoughts. But let me ask you again, you made some
17 assertions that you believe that it's going to be good
18 for every one of Royce West's district and ethnic
19 minorities in the State of Texas. You made assertions
20 that this will prevent people from cheating and all
21 that other stuff. And I'm asking you, as relates to
22 voter impersonation, have you talked to any African-
23 Americans or Hispanics that said there was a problem
24 in the state, that this is a problem in the state?
25 Have you talked to any African-Americans in the state?